

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA  
WHEELING DIVISION**

MARK MCEVOY, *et al.*,  
Plaintiffs,

v.

DIVERSIFIED ENERGY COMPANY PLC,  
*et al.*,  
Defendants.<sup>1</sup>

Civil Action No. 5:22-cv-00171-JPB  
Judge John P. Bailey

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**DIVERSIFIED DEFENDANTS’ MOTION TO COMPEL PRODUCTION OF  
DOCUMENTS FROM THIRD PARTY OHIO RIVER VALLEY INSTITUTE AND TED  
BOETTNER PURSUANT TO SUBPOENAS *DUCES TECA***

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Pursuant to Federal Rule of Civil Procedure 45(d)(2)(B)(i) and 34(c), Diversified moves to compel production of documents from third parties, Ohio River Valley Institute and Ted Boettner as sought in two (2) Subpoenas *duces teca* duly served upon said third parties in accordance with Federal Rule of Civil Procedure 45(b)(1), on February 20, 2023. While the third parties requisite the validity of the subpoenas, they have yet to produce any responsive documents, although nearly a month has passed since they were served. (*See* Subpoenas attached hereto as ***Exhibit A***, returns as ***Exhibit B***, correspondence dated March 8, 2023, as ***Exhibit C***, objections to the subpoenas, as ***Exhibit D*** and correspondence dated March 16, 2023, as ***Exhibit E***.) For reasons more fully set

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<sup>1</sup> “Plaintiffs” are Mark McEvoy, James Tawney, Susan Tawney, Samuel Stark, Susan Dennison, Mark Goff, Carol DelRosso, George DelRosso, Benjamin Patterson, Chad Silvester, Michelle Silvester, Clinton and Candace Drainer Irrevocable Trust, Eben Fritts, Eben Fritts III, Gary Wentz, Heidi Deem, Jeffery Saltis, Kellie Saltis, Lane Evans, Minerva Evans, Maynard Tanner, Jennifer Tanner, Joan Medley, Jacob Collette, Regina Collette, Scott Corcoran, Kathy Johnson, and Christine Cochran; “Diversified Defendants” or “Diversified” are Diversified Energy Company PLC, Diversified Production LLC, and Diversified Gas & Oil Corporation. As Plaintiffs are aware, (1) Diversified Gas & Oil, PLC now operates as Diversified Energy Company PLC; (2) Alliance Petroleum Corporation now operates as Diversified Production LLC; and (3) Diversified Oil and Gas LLC does not exist.

forth in the accompanying memorandum, the Court should grant Diversified's motion, and enter an order enforcing said subpoenas compelling immediate production of the requested documents.

Respectfully submitted:

Dated: March 21, 2023

/s/ Howard M. Persinger, III

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Diversified Production LLC, Diversified Gas & Oil Corporation, Diversified Oil and Gas LLC,  
and Alliance Petroleum Corporation*

**CERTIFICATE OF CONFERENCE**

The undersigned hereby certifies that as set forth in footnote 2 of the Memorandum in Support of this Motion, between February 23, 2023, and March 16, 2023, the parties met and conferred in good faith concerning the production of documents under the subpoenas *duces teca*, but did not resolve the dispute.

/s/ Howard M. Persinger, III  
Howard M. Persinger, III

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on March 21, 2023, a copy of the foregoing was served on all counsel of record via the Court's electronic filing system, and via email and United States First Class mail to the following:

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/s/ Howard M. Persinger, III  
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